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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

GARY JOE THOMPSON,

Defendant and Appellant.

E065816

(Super.Ct.No. RIF1407900)

OPINION

APPEAL from the Superior Court of Riverside County. Michael B. Donner,
Judge. Affirmed.

Martin Kassman, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a plea agreement, defendant and appellant Gary Joe Thompson
pleaded guilty to carrying a concealed dirk or dagger (Pen. Code, § 21310) and admitted
that he had suffered one prior strike conviction (Pen. Code, §§ 667, subds. (c) &

(e)(2)(A), 1170.12, subd. (c)(2)(a)). In return, the remaining charge and enhancement allegations were dismissed and defendant was sentenced to a stipulated term of four years in state prison. Defendant appeals from the sentence or other matters occurring after the plea. We find no error and affirm.

I

FACTUAL AND PROCEDURAL BACKGROUND

On June 5, 2014, defendant personally possessed a concealed fixed blade kitchen knife in his right front pants pocket.

On June 10, 2014, a felony complaint was filed charging defendant with one count of possession of cocaine base (former Health & Saf. Code, § 11350, subd. (a); count 1) and carrying a concealed dirk or dagger (Pen. Code, § 21310; count 2). The complaint also alleged that defendant had suffered nine prior prison terms (Pen. Code, § 667.5, subd. (b)) and two prior strike convictions (Pen. Code, §§ 667, subds. (c) & (e)(2)(A), 1170.12, subd. (c)(2)(a)).

On April 23, 2015, defendant entered into a negotiated plea agreement whereby he pled guilty to count 2 and admitted one prior strike conviction in exchange for a stipulated four-year term in state prison and dismissal of count 1 and the remaining enhancement allegations. After directly examining defendant, the trial court found that defendant understood the nature of the charges and the possible consequences of the plea; that the plea was entered into freely, voluntarily, knowingly, and intelligently; and that there was a factual basis for his plea.

On October 26, 2015, defendant filed an incomplete petition for resentencing, which had the instant case number in its caption but otherwise did not mention the instant case. At a hearing on November 20, 2015, defense counsel stated that the petition was being withdrawn, and the trial court deemed it withdrawn.

Notwithstanding the petition's withdrawal, the prosecution thereafter submitted a response to defendant's petition for resentencing, asserting defendant's current offense was not a qualifying felony and therefore defendant was not entitled to relief under Penal Code section 1170.18. On January 27, 2016, the trial court denied defendant's petition for resentencing, finding "[Penal Code section] 21310 is not a qualifying felony."

On February 26, 2016, defendant was sentenced in accordance with his plea agreement—the middle term of two years, doubled to four years due to the prior strike conviction. Count 1 and the remaining enhancement allegations were dismissed and defendant was awarded 1,264 days' credit for time served.

On April 12, 2016, defendant filed a notice of appeal from the January 27, 2016 order denying his petition for resentencing. On April 22, 2016, appellate counsel filed an amended notice of appeal from the judgment entered on February 26, 2016, based on the sentence or other matters occurring after the plea.

II

DISCUSSION

After defendant appealed, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979)

25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, and he has not done so.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the entire record for potential error and find no arguable error that would result in a disposition more favorable to defendant.

III

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

MILLER

J.

SLOUGH

J.